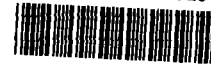




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
230 SOUTH DEARBORN ST.
CHICAGO, ILLINOIS 60604

E.5
7/30/91

EPA Region 5 Records Ctr.



393624

JUL 30 1991

REPLY TO ATTENTION OF:

5HS-12

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Re: Torch Lake Drums

Dear Sir or Madam:

Enclosed please find an executed copy of the Administrative Order by Consent issued for this site pursuant to Section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Sections 9601 et seq. Thank you for your cooperation in this matter.

If you have any questions regarding this Order, please contact Peter Pelitti, Assistant Regional Counsel, at (312) 886-7157 or Walter Nied, On-Scene Coordinator, at (312) 886-4466.

Sincerely yours,

David A. Ullrich, Director
Waste Management Division

Enclosure

cc: James Truchan, MDNR
Peter Pelitti, ORC Attorney
Walter Nied, OSC

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION V

E.5
7/30/91
Signed

IN THE MATTER OF:	)	Docket No.
)	
TORCH LAKE DRUM SITE	)	ADMINISTRATIVE ORDER BY
	)	CONSENT PURSUANT TO
	)	SECTION 106 OF THE
	)	COMPREHENSIVE
Respondents:	)	ENVIRONMENTAL RESPONSE,
	)	COMPENSATION, AND
	)	LIABILITY ACT OF 1980
	)	as amended, 42 U.S.C.
UNIVERSAL OIL PRODUCTS CO., INC.	)	Section 9606(a)
QUINCY MINING COMPANY)	
QUINCY DEVELOPMENT CORP.)	
HOUGHTON COUNTY DEPARTMENT OF)	
PUBLIC WORKS)	
SUPERIOR CRAFTS, INC.)	
RUDOLPH KUMP)	

PREAMBLE

The United States Environmental Protection Agency (U.S. EPA) and the Respondents have each agreed to the making and entry of this Order by Consent.

It is issued pursuant to the authority vested in the President of the United States by Sections 106(a) and 122 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9606(a), as amended by the Superfund Amendments and Reauthorization Act of 1986 Pub. L. 99-499 (CERCLA), and delegated to the Administrator of the U.S. EPA by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the Assistant Administrator for Solid Waste and Emergency Response and the Regional Administrators by U.S. EPA Delegation Nos. 14-14, 14-14-C and 14-14-D, and to the Director, Waste Management Division, Region V, by Regional Delegation Nos. 14-14-A, 14-14-C and 14-14-D.

A copy of this Order will also be provided to the State of Michigan, which has been notified of the issuance of this Order as required by Section 106(a) of CERCLA, 42 U.S.C. Section 9606(a).

This Order requires the Respondents, without admission of any fact or liability, to undertake and complete emergency removal activities to abate conditions which may present an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of hazardous substances at the site.

FINDINGS

Based on available information, including the Administrative Record in this matter, U.S. EPA hereby finds:

1. Torch Lake is located on the Keweenaw Peninsula in Houghton County, Michigan. It feeds into Portage Lake which is part of the Keweenaw waterway that opens into Lake Superior. The Torch Lake area is maintained as a habitat for wildlife and a recreational area for fishing, boating, and swimming.
2. In 1968 Universal Oil Products (UOP) merged with the Calumet & Hecla Mining Company. Calumet & Hecla operated mining, milling and stamp sand reclamation facilities at Lake Linden on the shore of Torch Lake as well as in other locations on the Lake from the late 1800's until 1968. In 1917 Calumet & Hecla acquired all of the assets of the Tamarack Mining Company.
3. Quincy Mining Company operated mines, mills and railroads on Torch Lake from the late 1800's until approximately 1960. The company also used chemical reagents to reclaim copper from tailings that were previously deposited in the lake.
4. In 1983 the Michigan Department of Public Health (MDPH) issued an advisory against the consumption of all sauger and walleye from Torch Lake because of the number of fish with dermal tumors.
5. Based on the MDPH advisory, the International Joint Commission Water Quality Board designated Torch Lake as a Great Lakes Area of Concern.
6. In 1988 Torch Lake was placed on the National Priorities List (NPL).
7. On August 3, 1989 the U.S. EPA's Environmental Response Team using a remote operated vehicle, located approximately ten drums in up to 20 feet of water offshore from the Lake Linden demolished copper smelter facility. The drums were videotaped and some contained solidified substances in direct contact (no lid in place) with Torch Lake water.
8. On August 1, 1990 the U.S. EPA contractor, Weston, collected nine drum samples from the western shoreline of Torch Lake. Weston also sampled two drums located in the wooded area on the east side of Highway M-26 on property currently owned by Quincy Development Company.



9. One of the sampled drums contained methyl isobutyl ketone, o-cresol, o-dichlorobenzene, m,p,-cresol, xylene and styrene. These are listed wastes under the Resource Conservation and Recovery Act (RCRA) in 40 CFR Part 261.31.

DETERMINATIONS

Based on the foregoing Findings, U.S. EPA has determined that:

1. Torch Lake Drum Site, constituting the four locations outlined in the Work Plan, is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. Section 9601(9).
2. Each Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. Section 9601(21).
3. Respondents Quincy Development Corporation, Superior Crafts, Inc., the Houghton County Department of Public Works and Rudolph Kump are present "owners" of the Torch Lake Drum Site, as defined by Section 101(20) of CERCLA, 42 U.S.C. Section 9601(20). Respondents UOP and Quincy Mining Company are past or present owners or operators of parts of the Torch Lake Drum Site, or arranged for disposal or transport for disposal of hazardous substances at the Torch Lake Drum Site. Respondents are therefore liable persons under Section 107(a) of CERCLA, 42 U.S.C. Section 9607.
4. Methyl isobutyl ketone, o-dichlorobenzene, m,p-cresol, o-cresol, xylene and styrene are "hazardous substances" as defined by Section 101(14) of CERCLA, 42 U.S.C. Section 9601(14).
5. Hazardous substances in old drums constitutes an actual or threatened "release" as that term is defined in Section 101(22) of CERCLA, 42 U.S.C. Section 9601(22).
6. The actual or threatened release of hazardous substances from the Facility may present an imminent and substantial endangerment to the public health, welfare, or the environment.
7. The actions required by this Order, if properly performed, are consistent with the National Contingency Plan (NCP), 40 CFR Part 300, as amended, and CERCLA; and are reasonable and necessary to protect the public health, welfare and the environment.
8. The conditions present at the Facility constitute a threat to public health or welfare or the environment based upon consideration of the factors set forth in the NCP, Section 300.415(b)(2). These factors include, but are not limited to, the following:

- a. actual or potential exposure to hazardous substances by nearby populations, animals, or the food chain from hazardous substances or pollutants or contaminants;

This factor is present at the Facility due to the unrestricted access to deteriorating abandoned drums which could expose the nearby populations to spilled hazardous materials. Due to the poor condition of the drums a direct contact threat is present with the drums, the hazardous materials in the drums, and/or contaminated soil for nearby residents and seasonal visitors who use the areas for recreational purposes. Two of the areas in which drums have been located are used by bicyclists and hikers, and are frequented by teenagers who use the areas as a place to meet, congregate and talk. One area, the east side of Highway M-26, is in a residential area, thereby subjecting homeowners to potential exposure.

- b. hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release;

This factor is present at the Facility due to the existence of abandoned deteriorating drums containing hazardous substances. Spilled or potentially spilled materials from the deteriorating drums have the potential to migrate into the soil and adjacent surface water.

- c. other situations or factors which may pose threats to public health or welfare or the environment.

This factor is present at the Facility due to the unrestricted access to poorly contained hazardous materials in deteriorating drums by nearby residents and seasonal visitors who utilize Torch Lake for recreational purposes.

ORDER

Based upon the foregoing Findings and Determinations, and pursuant to Section 106(a) of CERCLA, 42 U.S.C. Section 9606(a), it is hereby ordered and agreed that Respondents will undertake the following actions at the Facility:

1. Within seven (7) calendar days after the effective date of this Order, the Respondents shall submit to U.S. EPA for approval, a Work Plan for the removal activities ordered as set forth in Paragraph 4 below. The Work Plan shall provide a concise description of the activities to be conducted to comply with the requirements of this Order. The Work Plan shall be reviewed by U.S. EPA, which may approve, disapprove, require revisions, or modify the Work Plan to insure completion of the removal activities set forth in paragraph 4 below.

Respondents shall implement the Work Plan as finally approved by U.S. EPA, including any modifications to insure completion of the removal activities set forth in paragraph 4 below. Once approved, the Work Plan shall be deemed to be incorporated into and made a fully enforceable part of this Order.

2. The Work Plan shall contain a site safety and health plan, a sampling and analysis plan, and a schedule of the work to be performed. The site safety and health plan shall be prepared in accordance with the Occupational Safety and Health Administration (OSHA) regulations applicable to Hazardous Waste Operations and Emergency Response, 29 CFR Part 1910. The Work Plan and other submitted documents shall demonstrate that the Respondents can properly conduct the actions required by this Order.

3. Respondents have retained Geraghty & Miller, Inc. to undertake and complete the requirements of this Order, and have notified U.S. EPA of this fact. U.S. EPA retains the right to disapprove of any, or all, of the contractors and/or subcontractors retained by the Respondents. In the event U.S. EPA disapproves of a selected contractor, Respondents shall retain a different contractor to perform the work, and such selection shall be made within five (5) business days following U.S. EPA's disapproval.

4. Within seven (7) calendar days after U.S. EPA approval of the Work Plan, Respondents shall implement the Work Plan as approved or modified by U.S. EPA. Failure of the Respondents to properly implement all aspects of the Work Plan shall be deemed to be a violation of the terms of this Order. The Work Plan shall require the Respondents to perform, and complete the following removal activities, which are set forth in detail in the Work Plan:

- a. Conduct representative sampling of all aboveground drums and remove and properly dispose of all drums found to contain hazardous material.
- b. Sample soils for areas from which drums have been removed pursuant to subparagraph 4(a) above and remove all soils contaminated with hazardous material.
- c. Conduct a geophysical investigation to determine if any buried drums are located offshore to a depth of 30 feet, to the extent that such investigation has not already been conducted by EPA.
- d. Conduct an underwater survey to determine if any drums are located along the shoreline in Torch Lake to a depth of 30 feet contiguous to Respondent's property or place of business operation, and sample the drums that



may contain hazardous material, removing for sampling those drums that can not be sampled underwater.

5. All hazardous materials removed from the Torch Lake Drum Site under the terms of this Order shall be disposed of or treated at a facility approved by the On-Scene Coordinator and in accordance with the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. Section 6901, et seq., as amended, the U.S. EPA Revised Off-Site Policy, and all other applicable Federal, State, and local requirements.

6. Respondents have designated Geraghty & Miller by Richard Bartelt and/or Gary Kruger to be Project Coordinator. The U.S. EPA has designated Walter Nied, of the Emergency and Enforcement Response Branch, Response Section III, as its On-Scene Coordinator. The On-Scene Coordinator and the Project Coordinator shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communication between the Respondents and the U.S. EPA, and all documents, reports and approvals, and all other correspondence concerning the activities relevant to this Order, shall be directed through the On-Scene Coordinator and the Project Coordinator. During implementation of the Work Plan, the OSC and the Project Coordinator shall, whenever possible, operate by consensus, and shall attempt in good faith to resolve disputes informally through discussion of the issues.

7. The U.S. EPA and the Respondents shall each have the right to change their respective designated On-Scene Coordinator or Project Coordinator. U.S. EPA shall notify the Respondents, and Respondents shall notify U.S. EPA, as early as possible before such a change is made. Notification may initially be verbal, but shall promptly be reduced to writing.

8. The U.S. EPA On-Scene Coordinator shall have the authority vested in an On-Scene Coordinator by the NCP, 40 CFR Part 300, as amended, including the authority to halt, conduct, or direct any work required by this Order, or to direct any other response action undertaken by U.S. EPA or the Respondents at the facility.

9. No extensions to the time frames in this Order shall be granted without sufficient cause. All extensions must be requested, in writing, and shall not be deemed accepted unless approved, in writing, by U.S. EPA.

10. This Order and all instructions by the U.S. EPA On-Scene Coordinator or designated alternate that are consistent with the National Contingency Plan and this Order shall be binding upon the Respondents, and the employees, agents, contractors, successors and assigns of the Respondents. Respondents are jointly and severally responsible for carrying out all actions required by this Order.

11. To the extent that the Facility or other areas where work under this Order is to be performed is owned by, or in possession of, someone other than the Respondents, Respondents shall attempt to obtain all necessary access agreements. In the event that after using their best efforts Respondents are unable to obtain such agreements, Respondents shall immediately notify U.S. EPA and U.S. EPA may then assist Respondents in gaining access, to the extent necessary to effectuate the response activities described herein, using such means as it deems appropriate. Respondents shall reimburse U.S. EPA for all attorneys' fees and court costs it incurs in assisting Respondents to obtain access.

12. Respondents shall provide, upon request, access to the Facility to U.S. EPA employees, and U.S. EPA-authorized contractors, agents, and consultants, and to the Respondents and Respondents-authorized contractors, agents, and consultants at anytime, and shall permit such persons to be present and move freely in the area in order to conduct inspections, including taking photographs and videotapes of the Facility, to do cleanup/stabilization work, to take samples, to monitor the work under this Order, and to conduct other activities which the U.S. EPA determines to be necessary to complete the work performed under the requirements of this Order and accompanying Work Plan. Respondents who are owners of any property upon which work is being conducted may observe such activities.

13. This Order shall be effective on the date of signature by the Director, Waste Management Division.

14. Respondents shall provide a written monthly progress report to the On-Scene Coordinator regarding the actions and activities undertaken under this Order. At a minimum, these progress reports shall describe the actions that have been taken to comply with this Order, including all results of sampling and tests received or prepared by the Respondents and shall describe all significant work items planned for the next month.

15. Respondents agree to retain for six years following completion of the activities required by this Order copies of all records, files and data relating to hazardous substances found on the site, or related to the activities undertaken pursuant to this Order, whether or not those documents were created pursuant to this Order. Respondents shall acquire and retain copies of all documents relating to the site that are in the possession of their contractors, agents and employees. The documents retained under this paragraph shall be made available to the U.S. EPA upon request.

16. Respondents shall pay all oversight costs of the United States related to activities conducted pursuant to this Order subsequent to the effective date hereof which are not inconsistent with the National Contingency Plan.

The United States shall submit an itemized cost statement to Respondents annually or, if sooner, not less than 60 calendar days after submission of the Final Report provided for in Paragraph 24 of this Order. Payments shall be made within 60 calendar days of Respondents' receipt of the cost statement. Payments shall be made to the EPA Hazardous Substances Superfund delivered to the U.S. EPA, Attn: Superfund Accounting, P.O. Box 70753, Chicago, Illinois 60673, in the form of a certified or cashier's check payable to "EPA Hazardous Substances Superfund." The face of the check should note that the payment is for the Torch Lake site, Superfund Site Identification Number S8. Respondents are jointly and severally liable for payment of the full amount due under this Order. A copy of the check(s) submitted must be sent simultaneously to the U.S. EPA representatives indicated in paragraph 17 below.

17. A notice, document, information, report, plan, approval, disapproval or other correspondence required to be submitted from one party to another under the Order shall be deemed submitted either when hand delivered or as of the date of receipt by certified mail, return receipt requested.

Submissions to the Respondents shall be submitted to:

Universal Oil Products
c/o Gaines Gwathmey, III
Paul, Weiss, Rifkind, Wharton & Garrison
1285 Avenue of the Americas
New York, New York 10019-6064

Quincy Mining Company
c/o Kenneth W. Vermeulen
900 Old Kent Building
Grand Rapids, Michigan 49503

Quincy Development Company
c/o Jerome I. Maynard
Dykema Gossett
35th Floor
400 Renaissance Center
Detroit, Michigan 48243

Superior Craft, Inc.
c/o James Patrick
U.S. 41
Mohawk, Michigan 49950



Houghton County Department of Public Works
c/o Gary Viegelahn
Houghton County Courthouse
Houghton, Michigan 49931

Rudolph Kump
2034 Calumet Avenue
Calumet, Michigan 49913

Geraghty & Miller, P.C.
75 East Wacker Drive
Suite 1100
Chicago, Illinois 60601
ATTN: Gary Kruger

Submissions to the U.S. EPA shall be submitted to:

one copy: Walter Nied
On-Scene Coordinator
U.S. EPA (5HS-12)
230 South Dearborn
Chicago, Illinois 60604

one copy: Peter Felitti
Assistant Regional Counsel
U.S. EPA (5CS-TUB 03)
230 South Dearborn
Chicago, Illinois 60604

18. If any provision of this Order is deemed invalid or unenforceable, the remainder of this Order shall remain in full force and effect.

STIPULATED PENALTIES

19. For each day or portion thereof the Respondents have failed to meet the deadlines set forth in the Consent Order and workplan, Respondents shall be liable for a penalty of two hundred dollars (\$200) per day for the first fourteen (14) days thereof and three hundred dollars (\$300) per day thereafter.

20. All penalties which accrue pursuant to the requirements of this Order shall be paid within ten (10) calendar days of written demand by U.S. EPA. Payment shall be made to the EPA Hazardous Substances Superfund delivered to the U.S. EPA, Attn: Superfund Accounting, P.O. Box 70753, Chicago, Illinois 60673, in the form of a certified or cashier's check payable to "EPA Hazardous Substances Superfund." The face of the check should note that the payment is for the Torch Lake site.

21. Pursuant to 31 U.S.C. Section 3717, interest shall accrue on any amount of overdue stipulated penalties at a rate established by the United States Treasury. Stipulated penalties shall accrue, but need not be paid, during any dispute resolution period concerning the particular penalties at issue. Upon resolution of the dispute, Respondents shall pay such penalties as the resolution requires.

22. Payment of Stipulated Penalties will not relieve Respondents from complying with the terms of this Consent Order. U.S. EPA retains the right to seek any remedies or sanctions available to U.S. EPA by reason of Respondent's noncompliance with the provisions of this Consent Order that are not otherwise expressly limited by these Stipulated Penalty provisions.

PENALTIES FOR NONCOMPLIANCE

23. Respondents are advised pursuant to Section 106(b) of CERCLA, 42 U.S.C. Section 9606(b), that subsequent failure or refusal to comply with this Order and any Work Plan approved under this Order may subject the Respondents to a civil penalty of no more than \$25,000 per day for each day in which such violation occurs, or such failure to comply continues. In addition, failure to properly provide removal action upon the terms of this order, or other subsequent orders issued by U.S. EPA, may result in liability for punitive damages pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C Section 9607(c)(3).

TERMINATION AND SATISFACTION

24. The Respondents shall submit a final report summarizing the actions taken to comply with this Order. The report shall contain, at a minimum: identification of the facility, a description of the locations and types of hazardous substances encountered at the facility upon the initiation of work performed under this Order, a chronology and description of the actions performed (including both the organization and implementation of response activities), a listing of the resources committed to perform the work under this Order (including financial, personnel, mechanical and technological resources), identification of all items that affected the actions performed under the Order and discussion of how all problems were resolved, a listing of quantities and types of materials removed pursuant to this Order, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destination of those materials, and a presentation of the analytical results of all sampling and analyses performed and accompanying appendices containing all relevant paperwork accrued during the action (e.g., manifests, invoices, bills, contracts, permits). The final report shall also include an affidavit from

a person who supervised or directed the preparation of that report. The affidavit shall certify under penalty of law that based on personal knowledge and appropriate inquiries of all other persons involved in preparation of the report, the information submitted is true, accurate and complete to the best of the affiant's knowledge and belief. The report shall be submitted within sixty (60) calendar days of completion of the work required by the U.S. EPA.

25. The provisions of this Order shall be deemed satisfied upon payment by Respondents of all sums due under the terms of this Order and upon the Respondent's receipt of written notice from U.S. EPA that the Respondents have demonstrated, to the satisfaction of U.S. EPA, that all of the terms of this Order, including any additional tasks consistent with this Consent Order which U.S. EPA has determined to be necessary, have been completed.

INDEMNIFICATION

26. The Respondents agree to indemnify and save and hold harmless the United States Government, its agencies, departments, agents, and employees, from any and all claims or causes of action arising from, or on account of, acts or omissions of the Respondents, its officers, employees, receivers, trustees, agents, successors or assigns, in carrying out the activities pursuant to this Order. The United States Government shall not be held as a party to any contract entered into by the Respondents in carrying out activities under this Order. Respondents do not assume any liability arising from acts or omissions of U.S. EPA, its employees and agents during the course of U.S. EPA's activities conducted in conjunction with this Order.

RESERVATION OF RIGHTS

27. This Order is not intended for the benefit of any third party and may not be enforced by any third party.

28. The U.S. EPA and the Respondents reserve all rights, claims, demands, and defenses, including defenses and denials of and to all determinations and findings, that they may have as to each other except as otherwise provided in this Order pursuant to any available legal authority. Nothing in this Order shall expand the Respondents' ability to obtain preenforcement review of U.S. EPA actions. Notwithstanding any reservation of rights, Respondents agree to comply with the terms and conditions of this Order and consent to the jurisdiction of the U.S. EPA to enter into and enforce this Order.

29. Nothing herein is intended to release, discharge, limit or in any way affect any claim, causes of action or demands in law or

equity including but not limited to contribution, indemnity or other remedy which the parties may have against any persons, firm, trust, joint venture, partnership, corporation, or other entity not a party to this Order for any liability it may have arising out of, or relating in any way to, the generation, storage, treatment, handling, transportation, disposal, release or threat of release of any hazardous substance, hazardous waste, contaminant or pollutant at or from the site. The parties to this Order hereby expressly reserve all rights, claims, demands and causes of action they may have against any and all other persons and entities who are not parties to this Order.

30. Nothing herein shall be construed: 1) to prevent U.S. EPA from exercising its right to disapprove of work performed by the Respondents; 2) to prevent U.S. EPA from seeking legal or equitable relief to enforce the terms of this order; 3) to prevent U.S. EPA from taking other legal or equitable action not inconsistent with the Covenant Not To Sue in paragraphs 41 through 43 of this Order; 4) to prevent U.S. EPA from requiring the Respondents in the future to perform additional activities pursuant to CERCLA, 42 U.S.C. Section 9601 et seq., or any other applicable law; or 5) to prevent U.S. EPA from undertaking response actions at the site.

FORCE MAJEURE

31. The Respondents shall cause all work to be performed within the time limits set forth herein and in the approved Work Plan, unless performance is delayed by "force majeure". For purposes of this Order, "force majeure" shall mean an event arising from causes beyond the control of the Respondents and their contractors which delays or prevents the performance of any obligation required by this Order, including but not limited to Acts of God or U.S. EPA's delay in its review functions relating to the Work Plan. Increases in costs, financial difficulty, and delays encountered by the Respondents in securing any required permits or approvals for which Respondents have failed to file a complete and timely application are examples of events that are not considered to be beyond the control of the Respondents.

32. Respondents shall notify the OSC within 24 hours after Respondents become aware of any event which Respondents contend constitutes a force majeure, with subsequent written notice within seven (7) calendar days of the event. Such written notice shall describe: 1) the nature of the delay, 2) the cause of the delay, 3) the expected duration of the delay, including any demobilization and remobilization resulting from the delay, 4) the actions which will be taken to prevent or mitigate further delay, and 5) the timetable by which the actions to mitigate the delay will be taken. Respondents shall implement all reasonable measures to avoid and/or minimize such delays. The Respondents shall have the burden of demonstrating by a preponderance of the

evidence that the event is a force majeure, that the delay is warranted under the circumstances, and that best efforts were exercised to avoid and mitigate the effects of the delay. If U.S. EPA determines a delay is or was attributable to a force majeure, the time period for performance under this Order shall be extended as deemed necessary by the OSC to allow performance.

DISPUTE RESOLUTION

33. The Parties to this Order on Consent shall attempt to resolve expeditiously and informally any disagreements concerning implementation of this Order on Consent or any Work required hereunder.

34. In the event that any dispute arising under this Order on Consent is not resolved expeditiously through informal means, any party desiring dispute resolution under this Section shall give prompt written notice to the other parties to the Order.

35. Within ten (10) calendar days of the service of notice of dispute pursuant to Paragraph 34 above, the party who gave notice shall serve on the other parties to this Order a written statement of the issues in dispute, the relevant facts upon which the dispute is based, and factual data, analysis or opinion supporting its position, and all supporting documentation on which such party relies (hereinafter the "Statement of Position"). The opposing parties shall serve their Statement of Position, including supporting documentation, no later than ten (10) calendar days after receipt of the complaining party's Statement of Position. In the event that these 10-day time periods for exchange of Statements of Position may cause a delay in the work, they may be shortened upon and in accordance with notice by U.S. EPA.

36. An administrative record of any dispute under this Section shall be maintained by U.S. EPA. The record shall include the written notification of such dispute, and the Statements of Position served pursuant to the preceding paragraphs.

37. Upon review of the administrative record, the Director of the Waste Management Division, U.S. EPA, Region V, shall resolve the dispute consistent with the NCP and the terms of this Order.

NON-ADMISSION

38. The consent of the Respondents to the terms of this Order shall not constitute or be construed as an admission of liability or of U.S. EPA's findings or determinations contained in this

Order in any proceeding other than a proceeding to enforce the terms of this Order.

CERCLA FUNDING

39. The Respondents waive any claims or demands for compensation or payment under Sections 106(b), 111 and 112 of CERCLA against the United States or the Hazardous Substance Superfund established by 26 U.S.C. §9507 for, or arising out of, any activity performed or expenses incurred pursuant to this Consent Order.

40. This Consent Order does not constitute any decision on preauthorization of funds under Section 111(a)(2) of CERCLA.

COVENANT NOT TO SUE

41. Upon termination and satisfaction of this Administrative Order pursuant to its terms, for and in consideration of the complete and timely performance by Respondents of the obligations agreed to in this Order, U.S. EPA hereby covenants not to sue Respondents for judicial imposition of damages or civil penalties for any failure to perform obligations agreed to in this Order except as otherwise reserved herein.

42. Performance of the terms of this Order resolves and satisfies the liability of the Respondents to U.S. EPA for work satisfactorily performed under this Order. U.S. EPA recognizes that, pursuant to Section 113 of CERCLA, the Respondents, upon having resolved their liability with the U.S. EPA for the matters expressly covered by this Order, shall not be liable for claims for contribution by non-parties regarding matters addressed in this Order. Nothing in this Order precludes the Respondents from asserting any claims, causes of action or demands against potentially responsible parties (PRPs) who are not parties to this Order for indemnification, contribution, or cost recovery.

43. In consideration of the actions to be performed by the Respondents under this Order, the U.S. EPA covenants not to sue the Respondents, their successors or assigns for any and all claims which are available to the U.S. as against the Respondents under Sections 106 and 107 of CERCLA concerning all matters satisfactorily performed.

SUBSEQUENT AMENDMENT

44. This Consent Order may be amended by mutual agreement of U.S. EPA and the Respondents. Any amendment of this Consent Order shall be in writing, signed by U.S. EPA and the Respondents and



shall have as the effective date, that date on which such amendment is signed by U.S. EPA.

COMMUNITY RELATIONS AND PUBLIC COMMENT

45. With regards to the work required under this Order, Respondents shall cooperate with U.S. EPA in providing information to the public. As requested by the U.S. EPA, Respondents shall provide technical or other information to be disseminated to the public or to be used in public meetings that may be held or sponsored by U.S. EPA to explain activities at or concerning the Site. Respondents may take part in such public meetings.

SIGNATORIES

Each undersigned representative of a signatory to this Administrative Order on Consent certifies that he or she is fully authorized to enter into the terms and conditions of this Order and to bind such signatory, its directors, officers, employees, agents, successors and assigns, to this document.

Agreed this 19th day of July, 1991.

Universal Oil Products Company, Inc. (UOP)

By *R. J. Pacini*
Raymond J. Pacini, Managing Director
Henley Properties Inc. for UOP

The above being agreed and consented to, it is so ORDERED

this 30th day of July, 1991:

By *David A. Ullrich*
David A. Ullrich, Director
Waste Management Division
U.S. Environmental Protection Agency
Region V, Complainant

shall have as the effective date, that date on which such amendment is signed by U.S. EPA.

COMMUNITY RELATIONS AND PUBLIC COMMENT

45. With regards to the work required under this Order, Respondents shall cooperate with U.S. EPA in providing information to the public. As requested by the U.S. EPA, Respondents shall provide technical or other information to be disseminated to the public or to be used in public meetings that may be held or sponsored by U.S. EPA to explain activities at or concerning the Site. Respondents may take part in such public meetings.

SIGNATORIES

Each undersigned representative of a signatory to this Administrative Order on Consent certifies that he or she is fully authorized to enter into the terms and conditions of this Order and to bind such signatory, its directors, officers, employees, agents, successors and assigns, to this document.

Agreed this 19th day of July, 1991.

Universal Oil Products Company, Inc. (UOP)

By

R. J. Pacini
Raymond J. Pacini, Managing Director
Kenley Properties Inc. for UOP

The above being agreed and consented to, it is so ORDERED

this 30th day of July, 1991:

By

David A. Ullrich
David A. Ullrich, Director
Waste Management Division
U.S. Environmental Protection Agency
Region V, Complainant



shall have as the effective date, that date on which such amendment is signed by U.S. EPA.

COMMUNITY RELATIONS AND PUBLIC COMMENT

45. With regards to the work required under this Order, Respondents shall cooperate with U.S. EPA in providing information to the public. As requested by the U.S. EPA, Respondents shall provide technical or other information to be disseminated to the public or to be used in public meetings that may be held or sponsored by U.S. EPA to explain activities at or concerning the Site. Respondents may take part in such public meetings.

SIGNATORIES

Each undersigned representative of a signatory to this Administrative Order on Consent certifies that he or she is fully authorized to enter into the terms and conditions of this Order and to bind such signatory, its directors, officers, employees, agents, successors and assigns, to this document.

Agreed this 17 day of July, 1991.

By Rudolph Hump

The above being agreed and consented to, it is so ORDERED
this 30th day of July, 1991.

By Jodi Kraub
for David A. Ullrich, Director
Waste Management Division
U.S. Environmental Protection Agency
Region V, Complainant

shall have as the effective date, that date on which such amendment is signed by U.S. EPA.

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Agreed this 17 day of July, 1991.

By Rendolph Keeney

The above being agreed and consented to, it is so ORDERED
this 30th day of July, 1991.

By David A. Ullrich
for David A. Ullrich, Director
Waste Management Division
U.S. Environmental Protection Agency
Region V, Complainant



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Agreed this 19th day of July, 1991.

By

Michael D. Frisk
Quincy Development Corp.
Michael D. Frisk, President

The above being agreed and consented to, it is so ORDERED
this 30th day of July, 1991.

By

David A. Ullrich
for David A. Ullrich, Director
Waste Management Division
U.S. Environmental Protection Agency
Region V, Complainant

shall have as the effective date, that date on which such amendment is signed by U.S. EPA.

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Agreed this 19th day of July, 1991.

By Michael D. Frisk
Quincy Development Corp.
Michael D. Frisk, President

The above being agreed and consented to, it is so ORDERED
this 30th day of July, 1991.

By David A. Ullrich
David A. Ullrich, Director
Waste Management Division
U.S. Environmental Protection Agency
Region V, Complainant

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Agreed this 17th day of July, 1991.

By QUINCY MINING COMPANY, a Dissolved Corporation
Robert H. Haines
 Robert H. Haines, Authorized Agent

The above being agreed and consented to, it is so ORDERED
 this 30th day of July, 1991.

By David A. Ullrich
 David A. Ullrich, Director
 Waste Management Division
 U.S. Environmental Protection Agency
 Region V, Complainant



shall have as the effective date, that date on which such amendment is signed by U.S. EPA.

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Agreed this 18 day of July, 1991.

By

James Petrich, Pres.
Superior Crofts Inc.

The above being agreed and consented to, it is so ORDERED
this 30th day of July, 1991.

By

David A. Ullrich
David A. Ullrich, Director
Waste Management Division
U.S. Environmental Protection Agency
Region V, Complainant



shall have as the effective date, that date on which such amendment is signed by U.S. EPA.

COMMUNITY RELATIONS AND PUBLIC COMMENT

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Agreed this 22 day of July, 1991.

By Harry L. Vogelahn

The above being agreed and consented to, it is so ORDERED
this 30th day of July, 1991.

By David A. Ullrich
David A. Ullrich, Director
Waste Management Division
U.S. Environmental Protection Agency
Region V, Complainant

shall have as the effective date, that date on which such amendment is signed by U.S. EPA.

COMMUNITY RELATIONS AND PUBLIC COMMENT

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Agreed this 22 day of July, 1991.

By Harry L. Vogelahn

The above being agreed and consented to, it is so ORDERED
this 30th day of July, 1991.

for By Jodi Krumb
David A. Ullrich, Director
Waste Management Division
U.S. Environmental Protection Agency
Region V, Complainant